

**House Republican Conference
Office of Committee Relations****J.C.WATTS, JR.****Chairman****4th District, Oklahoma****WEDNESDAY, MARCH 7, 2001**

The House will meet at 10:00 a.m. for legislative business.

Suspensions (3 bills):

H.Con.Res. 31 – Sense of the Congress Supporting National Donor Day

H.R. 624 – Organ Donation Improvement Act of 2001

H.Con.Res. 47 - Honoring the 21 members of the National Guard who were killed in the crash of a National Guard aircraft on March 3, 2001, in south-central Georgia

Bill Pursuant to a Rule (1 bill):

S.J.Res. 6 – The Ergonomics Rule Disapproval Resolution

Suspensions (3 bills):**Floor Situation**

On Tuesday, the Rules Committee granted a rule making it in order for the House to consider three bills under suspension of the rules today. Each is debatable for 40 minutes, may not be amended, and require a two-thirds majority vote for passage.

Summary

H.Con.Res. 31 expresses the sense of Congress supporting the goals and ideas of National Donor Day and encourages all Americans to learn about the importance of organ, tissue, bone marrow, and blood donation and discuss such

donations with their families and friends. Finally, the measure requests that the president call on all Americans to conduct appropriate ceremonies, activities, and programs to demonstrate support for organ, tissue, bone marrow, and blood donation. H. Con. Res. 31 was introduced by Ms. Thurman on February 13, 2001 and referred to the [House Committee on Energy and Commerce](#). It was reported by voice vote on February 28, 2001.

H.R. 624 expresses the sense of Congress regarding the importance of families pledging to share their lives as organ and tissue donors and acknowledges the importance of discussing organ and tissue donation as a family. The measure specifically recognizes the generous contribution made by each living individual who has donated an organ to save a life. It also acknowledges the advances in medical technology that have enabled transplantation of organs donated by living individuals to become a viable treatment option for an increasing number of patients.

The bill directs the Secretary of Health and Human Services (HHS) to carry out a program to educate the public with respect to organ donation, in particular, the need for additional organs for transplantation. It also authorizes grants to cover the costs of travel and subsistence expenses for individuals who make living donations of their organs. Grants for organ donations are allowed if the individual meets the following two criteria: the state where the donor lives is different from the state where the intended recipient resides; and the annual income of the intended recipient does not exceed \$35,000. To implement the program, HHS is authorized to be appropriated \$5 million for each of the fiscal years 2001 through 2005. Under the measure the HHS Secretary is required to submit an annual report to Congress outlining the programs effectiveness and describe the extent to which the activities have affected the rate of organ donation. H.R. 624 was introduced by Mr. Bilirakis on February 14, 2001 and referred to the [House Committee on Energy and Commerce](#). It was reported by voice vote on February 28, 2001. At press time, a CBO estimate was unavailable.

H.Con.Res. 47 expresses the sense of Congress honoring the 18 members of the Virginia Air National Guard and the 3 members of the Florida Army National Guard who were killed on March 3, 2001, in the crash of a C-23 Sherpa National Guard aircraft in south-central Georgia. The measure also expresses the sense of Congress sending heartfelt condolences to their families, friends, and loved ones. H.Con.Res. 47 was introduced by Mr. Schrock on March 6, 2001, and was not considered by a committee.

Bill subject to a Rule (1 bill):

Floor Situation

Yesterday evening, the Rules Committee reported a closed rule waiving all points of order and providing one hour of general debate. The rule also allows for a motion to recommit with or without instructions.

Summary

S.J.Res. 6 expresses the disapproval of the United States Congress regarding the Occupational Safety and Health Administration (OSHA) rule on ergonomics submitted to Congress by the Department of Labor on November 14, 2000. This joint resolution of disapproval, permitted under chapter 8 of title 5 of the United States Code, states that the OSHA rule shall have no force or effect.

The OSHA rule on ergonomics took effect on January 16, 2000, but most of the employers' responsibilities do not begin until October 2001. The rule will affect over 102 million workers at over 6 million worksites. OSHA and industry leaders differ on how much the rule would cost per year. OSHA believes that the rule will cost \$4.5 billion per year, while some industry studies have placed the cost as high as \$90 billion per year. The new ergonomics standard would affect every worker in every workplace, except those workers currently covered by OSHA regulations. Workers in the construction, maritime, railroad or agriculture fields are among those already covered and therefore exempt from this rule.

Specifically, the new rule requires employers to provide workers with information about repetitive motion injuries, their symptoms, the importance of reporting such injuries, and their risk factors. Not all employers are required by the rule to establish ergonomics programs. The obligation to do so begins when a worker reports a work-related musculoskeletal disorder (MSD). OSHA's definition of an MSD includes injuries that are serious enough to require medical attention beyond first aid or have signs or symptoms that last at least seven days. However, the definition excludes any injuries that can be caused by a single event. The rule provides that while the MSD may occur on the job, it may also have been pre-existing and simply aggravated in the workplace. After the MSD is reported, the employer must control the ergonomic hazard within 90 days or implement an ergonomic program. The employer must then take steps to help the worker avoid aggravation and promote healing of the reported injury.

In order of OSHA preference, corrective actions included in an ergonomics program consist of (1) physically redesigning the workplace area or equipment that was pinpointed as the cause of the problem; (2) modifying the procedure or technique used by the employees; (3) reducing the exposure of employees to

the workstation or equipment that caused the problem; or (4) supplying personal protective equipment to employees who may be in danger of suffering a MSD. If a workers normal required workload is reduced, the rule ensures that they still receive 100 percent of their pay and benefits for 90 days. If workers cannot perform their job duties because of their injury, the OSHA standard prohibits employers from paying them less than 90 percent of their salary and requires employers to maintain full benefits.

Background

The Congressional Review Act

The Congressional Review Act (CRA) was passed in 1996 as a part of the Small Business Regulatory Fairness Act of 1996 (*P.L. 104-121*). It granted Congress new authority to review and disapprove many regulatory rules made by a federal agency. Regulations covered by the CRA are subject to disapproval, even if they have already taken effect. The CRA allows Congress 60 days to review an agency's rule. During that time, either body of Congress has the option of offering a joint resolution of disapproval. This resolution, if passed by both houses and signed by the president, would nullify the rule. However, the federal agency responsible for the rule is not prevented from issuing another rule on the same subject.

The CRA grants special procedure for expedited consideration of a resolution of disapproval in the Senate, but not in the House. However, if one body of Congress passes a resolution of disapproval, the measure is not referred to the committee with jurisdiction in the other body. The resolution may then go straight to the floor and the vote on final passage is simply a vote on the resolution approved by the other body of Congress.

Congress has attempted, but never passed, a joint resolution of disapproval. In 1998, when the Health Care Financing Administration (HCFA) issued a minor rule (one that does not require the usual 60 days of public notice and comment) it took effect immediately. Senator Bond introduced S.J.Res. 50 to disapprove the rule. The resolution for disapproval gained enough support that a similar bill, H.J. Res. 123, was introduced in the House. Wielding the power granted them by the CRA, members of the Senate Finance Committee met with HCFA and agreed to suspend the rule indefinitely pending a study by the General Accounting Office. No vote on either the House or Senate resolutions was taken, and the rule remains suspended.

Another joint resolution of disapproval was introduced after HCFA issued a major rule on August 30, 1996 that concerned a revision of the rates of reimbursement of Medicare providers. Since a major rule requires 60 days of public notice and comment, the practice, which was to begin on October 1, could not begin until

October 29. This would have caused a major loss of revenue for doctors and hospitals. The CRA provides that if a joint resolution of disapproval is rejected by either body, the effective date of a rule cannot be delayed. Senator Lott introduced S.J.Res. 60 in the morning of September 17, 1996 and later that afternoon the Senate rejected it, allowing the rule to go into effect as scheduled on October 1.

History of OSHA Ergonomics Standards

Ergonomics is the applied science of equipment design for the workplace that is intended to maximize productivity by reducing operator fatigue and discomfort. Carpal Tunnel Syndrome and tendonitis are examples of musculoskeletal disorders (MSD); repetitive motion injuries that some claim are caused by the workplace. The Occupational Safety and Health Administration (OSHA) has been working on a rule that provides an ergonomics standard for the workplace for years. In 1992, OSHA issued a notice that a rule was being proposed, and in 1994 issued a draft proposal. The 1994 proposal ran into major opposition from industry groups. This led OSHA to issue a less extensive revised draft in 1995. From that point on, riders on Labor/HHS appropriations bills prohibited OSHA from issuing formal ergonomics rules. Last year however, OSHA issued its rule while Congress was in recess for the elections and its Labor/HHS appropriation had not yet been passed.

Legislative History

S.J.Res. 6 is a privileged matter and was not considered by a House Committee. The Senate passed the measure by a vote of 56-44 last night.

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